

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Genevieve Lamont	Team: Squad #8	CCRB Case #: 201905132	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Bias	
Incident Date(s) Tuesday 05/28/2019 12:48 AM	18 Mo. SOL 11-28-2020	EO SOL 07-15-2021	Location of Incident: Southeast corner Neptune Avenue and West 15th Street	Precinct: 60
Date/Time CV Reported Thu, 06/13/2019 12:41 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 06/13/2019 12:41 PM	

Complainant/Victim	Type	Home Address
1. § 87(2)(b)	Comp/Victim	§ 87(2)(b)

Witness(es)	Home Address
1. § 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Mubbashar Zahid	03267	965634	060 PCT
2. LT Timothy Brovakos	00000	943025	060 PCT
3. POM Frank Bulzoni	02681	936258	060 PCT
4. POM Dwayne Diviney	25384	963013	073 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Tuan Tes	10905	963774	060 PCT

Officer(s)	Allegation	Investigator Recommendation
A . LT Timothy Brovakos	Discourtesy: At the southeast corner Neptune Avenue and West 15th Street in Brooklyn, Lieutenant Timothy Brovakos spoke discourteously to § 87(2)(b).	A . § 87(2)(g)
B . LT Timothy Brovakos	Force: At the southeast corner Neptune Avenue and West 15th Street in Brooklyn, Lieutenant Timothy Brovakos used physical force against § 87(2)(b).	B . § 87(2)(g)
C . POM Mubbashar Zahid	Force: At the southeast corner Neptune Avenue and West 15th Street in Brooklyn, Police Officer Mubbashar Zahid used physical force against § 87(2)(b).	C . § 87(2)(g)
D . POM Frank Bulzoni	Force: At the southeast corner Neptune Avenue and West 15th Street in Brooklyn, Police Officer Frank Bulzoni used physical force against § 87(2)(b).	D . § 87(2)(g)
E . POM Dwayne Diviney	Force: At the southeast corner Neptune Avenue and West 15th Street in Brooklyn, Police Officer Dwayne Diviney used physical force against § 87(2)(b).	E . § 87(2)(g)
F . LT Timothy Brovakos	Abuse of Authority: At the 60th Precinct stationhouse in Brooklyn, Lieutenant Timothy Brovakos did not obtain medical treatment for § 87(2)(b).	F . § 87(2)(g)

Case Summary

On June 13, 2019, § 87(2)(b) filed the following complaint with the CCRB by phone.

On May 28, 2019, at approximately 12:48 a.m., § 87(2)(b) was at the intersection of Neptune Avenue and West 15th Street in Brooklyn, when his vehicle was stopped by Lt. Timothy Brovakos and PO Mubbashar Zahid of the 60th Precinct. After running his license, the officers informed § 87(2)(b) that he had an active warrant, directed him to step out his vehicle, and handcuffed him. An additional transport vehicle arrived on scene with PO Dwayne Diviney of the 73rd Precinct and PO Tuan Tes of the 60th Precinct. § 87(2)(b) refused to comply with orders to get inside the vehicle, and Lt. Brovakos informed him that he would do “bullshit time” if he hurt the officers (**Allegation A: Discourtesy; § 87(2)(g)**). Lt. Brovakos and PO Zahid each grabbed one of § 87(2)(b)'s legs and lifted him up and into the police vehicle (**Allegations B and C: Force; § 87(2)(g)**). As they did this, PO Frank Bulzoni placed a hand on § 87(2)(b)'s chest and pushed him inside (**Allegation D: Force; § 87(2)(g)**). PO Diviney, who was on the other side of the car, allegedly grabbed the chain connecting § 87(2)(b)'s handcuffs and pulled him inside (**Allegation E: Force; § 87(2)(g)**).

§ 87(2)(b) was then transported to the 60th Precinct stationhouse by PO Diviney and PO Tes. While in the holding cell, he allegedly asked Lt. Brovakos twice to go to the hospital, to which he responded that this would prolong his processing (**Allegation F: Abuse of Authority; § 87(2)(g)**). § 87(2)(b) was ultimately removed to Coney Island Hospital two hours after being first lodged at the stationhouse, where he was diagnosed with a sprained shoulder and wrist [BR01]. He was discharged back into police custody and later transported to Brooklyn Central Booking.

Body-worn camera (BWC) footage from Lt. Brovakos, PO Zahid, PO Bulzoni, PO Diviney, and PO Tes was obtained by the investigation [BR02 through BR07].

Findings and Recommendations

Allegation (A) Discourtesy: At the southeast corner Neptune Avenue and West 15th Street in Brooklyn, Lieutenant Timothy Brovakos spoke discourteously to § 87(2)(b)

Allegation (B) Force: At the southeast corner Neptune Avenue and West 15th Street in Brooklyn, Lieutenant Timothy Brovakos used physical force against § 87(2)(b)

Allegation (C) Force: At the southeast corner Neptune Avenue and West 15th Street in Brooklyn, Police Officer Mubbashar Zahid used physical force against § 87(2)(b)

Allegation (D) Force: At the southeast corner Neptune Avenue and West 15th Street in Brooklyn, Police Officer Frank Bulzoni used physical force against § 87(2)(b)

Allegation (E) Force: At the southeast corner Neptune Avenue and West 15th Street in Brooklyn, Police Officer Dwayne Diviney used physical force against § 87(2)(b)

It is undisputed that the officers used force to get § 87(2)(b) into the police vehicle; however, it remains in dispute if PO Diviney pulled on the chain of § 87(2)(b)'s handcuffs. It was also determined that PO Zahid did not use force to get § 87(2)(b) into the police vehicle. Additionally, it is undisputed that Lt. Brovakos used discourteous language during the incident.

§ 87(2)(b) testified that after he provided his information to PO Zahid and Lt. Brovakos, they informed him that he had an active warrant and to step out of the vehicle. § 87(2)(b) complied, but contested that the warrant was active. PO Zahid handcuffed § 87(2)(b) and he was walked to the police vehicle by PO Zahid, Lt. Brovakos, PO Diviney, and PO Tes. Lt. Brovakos told § 87(2)(b) to get inside the vehicle, which he refused to do and told Lt. Brovakos that he would not fit inside. Lt. Brovakos and PO Zahid each grabbed one of § 87(2)(b)'s legs and lifted them up. As they were doing this, he felt PO Diviney, who had gone to the other side of the vehicle, grab the chain connecting his handcuffs and pull him inside. He additionally felt other officers grab

his arms, but he did not know which officers did this. Lt. Brovakos and PO Zahid, who were still holding onto his legs, placed him inside the vehicle and closed the door [BR08].

Lt. Brovakos testified that after confirming § 87(2)(b)'s warrant with Queens Warrants, he called a caged car for transport over the radio. § 87(2)(b), § 87(2)(c)

§ 87(2)(b); the warrant number was confirmed by a warrant check conducted by the Department of Advocates Office [BR21 and BR09, respectively]. He and PO Zahid then approached § 87(2)(b) and directed him to exit his vehicle. Lt. Brovakos informed § 87(2)(b) that he had an active warrant, which he denied. PO Zahid handcuffed § 87(2)(b) and he, PO Diviney, and PO Tes (who had arrived with the caged car) walked § 87(2)(b) to the transport vehicle. Lt. Brovakos, who remained by § 87(2)(b)'s car, was alerted by an officer that § 87(2)(b) was refusing to enter the police vehicle. Lt. Brovakos went to vehicle and asked § 87(2)(b) three to six times to get inside the vehicle, as well as informing him that he would be charged with obstructing justice if he did not comply. He denied using any discourteous language during this interaction. § 87(2)(b) did not take any physical actions, but verbally refused to get into the car. Lt. Brovakos directed PO Diviney to move to the other side of the vehicle. He then wrapped his hands around § 87(2)(b)'s back thigh and lifted him two inches off the ground, so that he was level with the car seat. He believed that PO Diviney pulled § 87(2)(b) into the vehicle from the other side but did not know how he did this. He did not observe any other officer make physical contact with § 87(2)(b). PO Diviney and PO Tes then transported § 87(2)(b) to the 60th Precinct stationhouse [BR10]. The Threat, Resistance, and Injury report prepared by Lt. Brovakos noted that § 87(2)(b)'s legs were "lifted to be placed in [police vehicle] for transport to precinct for arrest processing" [BR11].

PO Zahid was consistent with Lt. Brovakos. He stated that he assisted Lt. Brovakos in placing § 87(2)(b) into the vehicle but did not recall how he did so [BR12]. PO Bulzoni did not recall the incident or if any officer lifted § 87(2)(b)'s legs or pulled on the chain of his handcuffs [BR13]. PO Diviney was consistent with Lt. Brovakos and PO Zahid and acknowledged being on the other side of the vehicle. He stated that he "guided" § 87(2)(b) into the vehicle by grabbing his arms and pulling him in but stated that no physical force was used while doing so. He did not recall if he pulled on the chain connecting § 87(2)(b)'s handcuffs. He did not observe any other officer take any physical actions with § 87(2)(b) [BR14].

Lt. Brovakos's BWC captures him telling § 87(2)(b) that he will do "bullshit time" if he hurts one of the officers by forcing them to put him into the car [BR02]. Upon viewing the footage, Lt. Brovakos stated that "bullshit time" referred to his warning that if § 87(2)(b) injured the officers while they attempted to get him into the vehicle, additional charges would be added to his arrest, and that he specifically used the word "bullshit" because § 87(2)(b) would not have received a serious sentence if he had done so [BR10].

Footage from PO Bulzoni's BWC was consistent with Lt. Brovakos' testimony and shows him grabbing § 87(2)(b)'s leg and lifting him up. The BWC footage shows that Lt. Brovakos is the only officer doing this. At 00:41 minutes, the footage shows PO Bulzoni placing a hand on § 87(2)(b)'s chest and pushing him into the car [BR05]. PO Zahid's BWC shows that, at 14:25 minutes, Lt. Brovakos leans down and grabs § 87(2)(b)'s legs. PO Zahid does not assist Lt. Brovakos in this and does not appear to touch § 87(2)(b) during this interaction [BR03]. PO Zahid was not shown BWC footage of the incident, as the investigation had not received it prior to his interview. § 87(2)(g)

§ 87(2)(b) Upon viewing his BWC, PO Bulzoni did not recall any additional information regarding the incident and denied used any physical force [BR13]. PO Diviney's BWC does not capture how PO Diviney gets § 87(2)(b) into the car, as his screen is black [BR07].

In DAO-DCT case number: 2017-17276, the trial commissioner held that in a violent and stressful street encounter, "language which would ordinarily be inappropriate in dealing with

civilians may be excused” [BR 16].

According to Patrol Guide Procedure 221-01, force may be used by a member of service when it is reasonable to place a person in custody or to prevent escape from custody [BR17].

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Abuse of Authority: At the 60th Precinct stationhouse in Brooklyn, Lieutenant Timothy Brovakos did not obtain medical treatment for § 87(2)(b)

It undisputed that § 87(2)(b) was removed to § 87(2)(b) in Brooklyn while he was in police custody. According to the 60th Precinct Command Log, § 87(2)(b) was lodged in the stationhouse holding cell at approximately 12:55 a.m.

§ 87(2)(b) testified that upon arriving at the 60th Precinct stationhouse, he continually asked the officers processing him to take off his handcuffs because he could not feel his hands. Once his handcuffs were removed in the holding cell, he observed that his right hand was swollen and bleeding, and he felt a sharp pain in his arm. § 87(2)(b) asked Lt. Brovakos for medical assistance, to which Lt. Brovakos responded that going to the hospital would prolong his processing. § 87(2)(b) asked Lt. Brovakos twice to go the hospital, which he ignored both times. § 87(2)(b) later asked an unidentified officer for medical assistance, and he informed § 87(2)(b) that he was told that § 87(2)(b) had denied medical assistance. § 87(2)(b) denied this, and this officer called an ambulance for him. At approximately 2:50 a.m., § 87(2)(b) was taken to § 87(2)(b) in Brooklyn, where he was diagnosed with a sprained wrist and a sprained shoulder. At approximately 6:25 a.m., he was released back into police custody after treatment [BR08].

§ 87(2)(b) complained of wrist pain to Lt. Brovakos at the 60th Precinct stationhouse. § 87(2)(b) asked to go to the hospital for his wrist, but then told Lt. Brovakos that he felt fine. § 87(2)(b) then later asked to go the hospital and an ambulance was called. Lt. Brovakos did not recall how long the interval was between the two requests. He did not recall how long § 87(2)(b) was in the stationhouse before he was transported to the hospital [BR10]. The Medical Treatment Prisoner Report (MTPR) for § 87(2)(b) noted that he was removed to the hospital for wrist pain and was escorted by PO Daniel Defrancesco. It also noted that § 87(2)(b) refused medical aid in the field [BR18]. PO Zahid did not recall having any conversation with § 87(2)(b) or Lt. Brovakos regarding medical attention. He did not have any further recollection after being shown the MTPR, which he prepared, and did not recall preparing the form [BR12]. PO Diviney testified that § 87(2)(b) requested to go to the hospital when they arrived at the stationhouse but that, per procedure, they needed to lodge him in the holding cell first. He then informed the front desk but did not know if an ambulance was called [BR14].

PO Diviney's BWC footage shows § 87(2)(b) being lodged in the holding cell at 13:30 minutes. At the 13:40 minute mark, § 87(2)(b) holds out his hand to PO Diviney and PO Tes and tells them he is bleeding. PO Diviney responds, "Yeah, I see it", and the video ends [BR06]. No BWC footage captures any interaction between § 87(2)(b) and Lt. Brovakos in the holding cell.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint § 87(2)(b) has been party to [BR19].
- Lt. Brovakos has been a member of service for 13 years and has been subject in 16 CCRB complaints and 29 allegations. A vehicle search for case #201500206 was substantiated, for which he received formalized training. § 87(2)(g)
- PO Zahid has been a member of service for two years and is currently a subject in one other ongoing CCRB investigation, case #201909807, in which a vehicle stop, vehicle search, and search of a person allegation has been pled, which has truncated and is under review by the Board. § 87(2)(g)
- PO Bulzoni has been a member of service for 15 years and has been subject in 11 previous CCRB complaints and 23 allegations, two of which were substantiated.
 - Case #201100781, in which a discourtesy – word allegation was substantiated, for which he received Command Discipline – B.
 - Case #201200928, in which a frisk allegation was substantiated, and charges were recommended. The case reached its statute of limitations before a disposition could be reached and no penalty was issued.
- PO Diviney has been a member of service for three years, and this is the first CCRB complaint he has been a subject in. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation due to § 87(2)(b)'s arrest.
- On March 4, 2020, a FOIL request was filed with the New York City Office of the Comptroller to determine if a Notice of Claim was filed for this incident. The results will be added to the case file upon receipt [BR20].

§ 87(2)(b), § 87(2)(c)

Squad No.: 8

Investigator: Genevieve Lamont Inv. Lamont 5/20/2020
Signature Print Title & Name Date

Squad Leader: Ethan De Angelo IM Ethan De Angelo 5/20/2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date